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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,269	02/26/2004	Bobby Gene Miller	MILL 2676	9401
7812	7590	10/09/2007	EXAMINER	
SMITH-HILL AND BEDELL, P.C. 16100 NW CORNELL ROAD, SUITE 220 BEAVERTON, OR 97006			GODFREY, KEITH JOSEPH	
			ART UNIT	PAPER NUMBER
			1791	
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			10/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,269	Applicant(s) MILLER, BOBBY GENE	
	Examiner Keith J. Godfrey	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 and 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6-7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyring et al. (US 6279868) in view of Scott (US 6186469) and in further view of Takagi (US 2003/0189268).

As to claims 1 and 6, Eyring et al. (US 6279868), hereinafter "Eyring", teaches a method including:

- spraying a concrete release agent on a forming surface (*horizontal surface*) (col. 2, lines 18);

- placing a rustication device (*reveal strip*) on the forming surface (*horizontal surface*), the forming surface have a release agent thereon (col. 2, lines 9-18);

- pouring concrete over the rustication device (*reveal strip*) and forming surface (*horizontal surface*) (col. 1, lines 33-44).

Eyring does not teach applying a layer of adhesive material to the coating of releasing agent nor applying to the rustication device (*reveal strip*).

Scott (US 6186469), hereinafter "Scott", teaches a method of making recessed in concrete panels including securing a bracket (*reveal strip*) to the form (*horizontal*

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surface) in which the concrete is poured using adhesives (col. 4, lines 57-67 and col. 5, lines 1-15). It is noted that Scott does not expressly teach the simultaneous coating of the form (*horizontal surface*) and the bracket (*reveal strip*) with adhesive; however, it is the Examiner's position that the adhesive layer on the reveal strip and on the release coating of the horizontal surface are essentially the same, and as such represent a mere duplication of parts thus having no patentable significance (MPEP 2144.05 VI. B).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the adhesive of Scott to reinforce the attachment of Eyring's rustication device to the forming surface (*horizontal surface*). Because both of the references are concerned with a similar technical field, namely that of creating recesses in concrete panels, one would have a reasonable expectation of success from the combination.

Eyring also does not teach coating the surface of the rustication device (*reveal strip*), which is adjacent to the poured concrete, with a releasing agent.

Takagi (US 2003/018268), hereinafter "Takagi", teaches a method preparing reveal band in a precast concrete panel disclosing that it is well known in the art to coat the rustication casting surface (*reveal strip surface*) with a release agent (paragraph [0001]). It is the position of the Examiner that the application of the releasing agent coating over the rustication surface (*reveal strip*) occurs after the placement of the rustication device (*reveal strip*) on the forming surface (*horizontal surface coated with a release agent and adhesive respectively*) and before pouring of the concrete, otherwise rendering the release agent useless.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a Takagi's release agent coating on the rustication surface (*reveal strip surface*) with the method of Eyring because the release agent facilitate easy separation between the rustication surface (*reveal strip*) and the concrete panel. Because both of the references are concerned with a similar technical field, namely that of forming recesses in concrete panels using rustication devices, one would have a reasonable expectation of success from the combination.

As to claims 7 and 9, Eyring teaches a method including:

- forming a concrete floor (*concrete slab*) (col. 1, lines 33-38). It is interpreted that the concrete floor maintains a horizontal upper surface;

- spraying a concrete release agent on a forming surface (*horizontal surface*) (col. 2, lines 18);

- placing a rustication device (*reveal strip*) on the forming surface (*horizontal surface*), the forming surface have a release agent thereon (col. 2, lines 9-18);

- pouring concrete over the rustication device (*reveal strip*) and forming surface (*horizontal surface*) (col. 1, lines 33-44).

Eyring does not teach applying a layer of adhesive material to the coating of releasing agent nor applying to the rustication device (*reveal strip*).

Scott teaches a method of making recessed in concrete panels including securing a bracket (*reveal strip*) to the form (*horizontal surface*) in which the concrete is poured using adhesives (col. 4, lines 57-67 and col. 5, lines 1-15). It is noted that Scott does not expressly teach the simultaneous coating of the form (*horizontal surface*) and

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the bracket (*reveal strip*) with adhesive; however, it is the Examiner's position that the adhesive layer on the reveal strip and on the release coating of the horizontal surface are essentially the same, and as such represent a mere duplication of parts thus having no patentable significance (MPEP 2144.05 VI. B).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the adhesive of Scott to reinforce the attachment of Eyring's rustication device to the forming surface (*horizontal surface*).

Eyring also does not teach coating the surface of the rustication device (*reveal strip*), which is adjacent to the poured concrete, with a releasing agent.

Takagi teaches a method preparing reveal band in a precast concrete panel disclosing that it is well known in the art to coat the rustication casting surface (*reveal strip surface*) with a release agent (paragraph [0001]). It is the position of the Examiner that the application of the releasing agent coating over the rustication surface (*reveal strip*) occurs after the placement of the rustication device (*reveal strip*) on the forming surface (*horizontal surface coated with a release agent and adhesive respectively*) and before pouring of the concrete, otherwise rendering the release agent useless.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a Takagi's release agent coating on the rustication surface (*reveal strip surface*) with the method of Eyring because the release agent facilitate easy separation between the rustication surface (*reveal strip*) and the concrete panel.

As to claim 8, Eyring teaches that after the concrete wall panel is cured, the horizontal panel is tilted to a vertical position (col. 2, lines 15-19). It is the Examiner's position that the rustication device (*reveal strip*) remains on the floor or forming surface (*horizontal upper surface of the concrete slab*) because it is securely bolted thereto.

Response to Arguments

Applicant's arguments with respect to claims 1 and 6-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith J. Godfrey whose telephone number is 571-272-6391. The examiner can normally be reached on 8:00-5:00 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

kjg


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER